



information
and privacy
commission
new south wales

The Hon Catherine Cusack MP
Chair
Committee on the Office of the
Ombudsman and Police Integrity Commission
Parliament of New South Wales
Macquarie Street
Sydney NSW 2000

30 April 2012

Dear Ms Cusack

Response to questions on notice

I write in response to your correspondence of 28 March 2012, in which the Committee posed a series of questions on notice drawn from my office's most recent annual reports as they relate to the Privacy Commissioner's jurisdiction; my own responsibilities as Information Commissioner administering the New South Wales right to information legislation; and my responsibilities as CEO of the Information and Privacy Commission.

Please find attached two documents:

- the responses from the Privacy Commissioner, Dr Elizabeth Coombs, to the Committee's questions to her, and
- my responses.

I look forward to being able to address any additional questions when I meet with the Committee on 21 May 2012.

Yours sincerely

Deirdre O'Donnell
Information Commissioner

Att

PARLIAMENT OF NSW

COMMITTEE ON THE OFFICE OF THE OMBUDSMAN AND POLICE INTEGRITY COMMISSION

QUESTIONS ON NOTICE IPC - Office of the Privacy Commissioner 2010/2011:

1. The Privacy Commissioner's Report notes that many agencies have responded positively to submissions and comments from your office on how they might improve both their methodologies and the outcomes of internal reviews. Can you outline in further detail an example of the methodological improvements that such an agency might make?

Response:

In summary the critical thing that agencies conducting internal reviews need to is to utilise a rigorous methodology that:

1. explicitly addresses the matters raised
2. collects and analyses relevant material and evidence including that provided by the parties involved
3. draws conclusions based upon the material examined
4. provides to the Office of the NSW Privacy Commissioner a copy of the draft report for comment prior to release
5. provides clear statement to the complainant of the findings and advises of the right of access to the Administrative Decisions Tribunal.

Background:

The author of the 2010/2011 Annual Report (acting Privacy Commissioner, Mr McAteer) noted a lack of rigor in a significant number of internal reviews submitted to his Office when he took up the position in late 2009. Often agencies conducted a 'desk top' review or evaluation of the allegation and the conduct that was the subject of the complaint.

In some instances however, where clear proactive lines of inquiry were open, and the conduct had a significant impact on the victim/applicant, rather than undertake a proactive investigation of the conduct, many agencies would do a minimal examination of the conduct and reach either premature or unsustainable conclusions.

The then acting Commissioner would raise these 'deficiencies' with the relevant agency (in applicable matters) as part of our statutory role in providing submissions under section 54 (2) of the *Privacy and Personal Information Protection Act 1998* (the PPIP Act). Over the period of late 2009 to June 2011 the acting Privacy Commissioner was able to raise the standard of the investigations of the alleged privacy breaches, and as a result agencies

produced more robust review reports with higher quality conclusions (based on available lines of inquiry, evidence and conclusions – when having regard to that evidence applied to the provisions of the PPIP Act). The general premise being that obvious straight forward lines of inquiry should be pursued in all matters, and further somewhat ‘discretionary’ lines of inquiry should be considered in the more serious matters, or matters where the weight of evidence leading to a certain outcome was mounting.

In many instances the acting Privacy Commissioner’s submission suggested further specific action that the agency should consider prior to concluding their reviews.

2. In the report, it was noted that many complaints received from members of the public are in relation to surveillance at home and at work, access to medical records and the use of criminal records. As some of these are outside the scope of NSW Privacy laws, how and where do you refer clients with respect to such complaints?

Response:

The client service approach adopted by this Office is to ensure that the complainant is provided with information as to why the issue cannot be dealt with by the Office of the NSW Privacy Commissioner, which agency is (if there is one) the appropriate body to deal with their complaint and provided with information on how to contact that body.

Background:

All of the above examples are peripherally captured by NSW privacy laws in that they are ‘privacy related matters’ and concern ‘the privacy of individuals’ (as in section 36 of the PPIP Act). The limitations on the scope of NSW Privacy Laws on some of these examples relates to the fact that either the Commissioner does not have specific legislative responsibility for the issue (eg: workplace surveillance and the *Workplace Surveillance Act 2005 NSW* are the responsibility of the Attorney General not the Privacy Commissioner). The other limitation is that the Information Protection Principles (IPP’s) under the PPIP Act, and the Health Privacy Principles (HPP’s) under the *Health Records and Information Privacy Act 2002* relate specifically to the concept of data. One of the Commissioner’s functions is to ‘provide advice on matters relating to the protection of personal information and the privacy of individuals generally’. (s-36 (2) (g) PPIP Act).

On this basis and consistent with our client service rationale, we provide general procedural advice and information about the substantive issue which an enquirer raises, and where possible or appropriate we refer clients to other resources including in some instances agencies. For example, complaints concerning large private organisations are referred to the Federal Privacy Commissioner within the Office of the Australian Information Commissioner. Prior to any referral we would provide general information about the National Privacy Principles under the *Privacy Act 1988 (Cth)*. Likewise if the inquiry

relates to a Commonwealth agency similar advice (and where necessary referral information) is provided citing the Information Privacy Principles.

Matters relating to workplace surveillance are usually addressed by general advice and referral to various printed resources on our website (eg: the 'Short Guide to the *Workplace Surveillance Act 2005*' publication). More pressing matters and requests for intervention are referred to the Attorney's staff. General community surveillance matters are dealt with through the provision of information and advice about public and private spaces, the tort of nuisance, pursuing matters with local councils, and managing issues through dispute resolution forums either with Community Justice Centre's or very rarely invoking the residual 'privacy matters' jurisdiction under section 36 (2) (k) of the PPIP Act to attempt to resolve the matter by Alternate Dispute Resolution.

Criminal records inquiries are often dealt with by internal advice relating to privacy and the *Criminal Records Act 1991*, various resources and publications freely available, and NSW Police.

The issue of access to medical records comprises a significant volume of requests of the Office and one that is fully within the Commissioner's jurisdiction under the HRIP Act. This Office provides advice and information, where appropriate refers matters for internal review, and as necessary provides advice or commences preliminary inquiries and investigates matters concerning access by medical service providers in the private sector.

3. The report notes the increasing incidence of cyber crime and identity theft. What gaps do you identify under existing NSW privacy laws and what role do you envisage the Commission will play in the development of new legislation and policy to address this growing area of concern?

Response:

Ideally the Commissioner will play a central role in the development of legislation and policy to address this area. The formal role of the Commission (and others) will however be determined by the Government.

Importantly, having regard to the digital economy, the cyber world and law enforcement, many of these matters are within the jurisdiction of the Commonwealth Government and its agencies (including law enforcement agencies). As a policy and client focused complaint driven organisation with national and international links, the NSW Privacy Commission will be well placed to bring experience and expertise to this process, drawing on its ongoing legacy since 1975.

Currently the Office works to raise awareness of privacy issues arising from internet usage through the Asia Pacific Privacy Authorities. It participates in raising awareness of 'privacy aware' internet practices by producing

resources and participating in campaigns such as Privacy Awareness Week which is an initiative of the Asia Pacific Privacy Authorities.

4. We note that under your core business activities from July 2010 to 30 June 2011 there has been a significant increase in complaints lodged and enquiries responded to. How is the Privacy Commission coping with this increase in workload? Are staff levels optimal for this work?

Response:

The Office of the Privacy Commission has coped with increases in workload by prioritising client service type 'core' functions, and diverting resources from less urgent policy and project work. New work practices were implemented in early 2011 to enable personal inquiries to be attended to in the first instance. (The Annual Report details how staff dedicated to work solely on privacy matters equated to six positions (including two part time positions) within the reporting period. The figure of six included the then Acting Commissioner (see answer to Q 8 below).

In essence staff levels are not sufficient to deal with all of the functions of the Commissioner especially having regard to the increased prominence of 'privacy' as a concept or 'notion' in the community, the increasing activity in national and international privacy law reform. Developments impacting on privacy and data sharing arrangements at Commonwealth and COAG levels, the increased requests for consideration of privacy exemptions by law enforcement agencies and other government entities in a climate of higher regulation and information gathering powers are all having an impact on the competing and higher demands on our resources.

Additionally there are some matters which remain outstanding from a compliance and guidance perspective (relating to Privacy Management Plans for the NSW sector, and Guidelines arising (in part) from the enactment of the recent FOI (GIPA regime). Steps are currently underway to provide a project position solution (late 11/12 Fin Year) in respect of this issue.

The very small complement of Privacy staff cope by efficient and diligent professionalism has dealt with a high volume of cases, projects and client service.

In more recent months, discussions with the Information Commissioner and CEO of the Information and Privacy Commission (IPC) has seen a commitment to additional resources being provided to the privacy component of the IPC and a pooling of staff resources in for example, the community education and communication area.

5. In cases where complainants are unsatisfied with the outcome of their internal review, what proportion of these complaints proceed to the Administrative Decisions Tribunal?

Response:

The available figures can be viewed only as indicative as there is a lag time between internal review lodgement and Administrative Decisions Tribunal (ADT) lodgement.

The 2010/11 Annual Report shows that 167 Internal Reviews were lodged and in the same period 44 matters were lodged with the ADT. While flagging that it is likely that some of these 44 matters arose before 2010/11 and may not relate to the 167 internal reviews of the 2010/11 period, this extrapolates to over 26% of matters being 'appealed' to the Tribunal. Currently (due to the fact that the Commissioner is essentially at 'arms length' from the Complainant in the Internal Review stage of the matter, we do not know or collect formal data on how many applicants are unsatisfied with their internal review outcome. In many instances however Complainants contact the office for advice following the completion of the review, and informal data would suggest a slightly higher than 25% 'dissatisfaction rate' following reviews.

6. What number of complainants specifically requested their complaints be investigated by the Privacy Commissioner rather than the government agency? How many of these requests were accepted.?

Response:

The number of complainants who specifically request the Privacy Commissioner investigates their complaint rather than the government agency is small. The reasons for this are varied.

The majority of complaints did not relate to NSW Government agencies (the report shows a total of 43 complaints for State and Local Government). The majority of complaints (53 or 56%) related to private organisations or other individuals or entities.

Of the 44% minority of complaints that related to government agencies, nearly all were declined on the basis that the complainant should proceed by way of internal review. The PPIP Act makes a provision that the availability of Internal Review is a specific ground to justify declining to deal with the matter as a complaint. Ordinarily, the only matters that would be taken up directly (where an internal review might be possible) are matters where the issue raises a systemic issue which impacts on a volume of citizens (eg: our recent investigation of a privacy complaint concerning NSW Police and Roads and Maritime Services relating to the security industry).

As a matter of course we would rarely if ever investigate a health privacy complaint (involving the public sector), because the HRIP Act provides that if the Privacy Commissioner deals with such a complaint, the complainant is prevented from going to the ADT (or seeking a further review). Resources are another reason for this approach, whereby our small staff can concentrate any investigation resources on private sector health matters in our residual jurisdiction involving the private sector exempted from the Commonwealth regime, and systemic issues etc.

7. We note that the category with the highest number of Internal Reviews related to medical records. What in particular does the Privacy Commissioner consider contributes to this area having the greatest number of reviews? Is the Privacy Commissioner surprised at the number of reviews overall? Does the Privacy Commissioner consider this will increase considerably in the future?

Response:

This area has the greatest number of internal reviews due to the usage of these services relative to other public services and because of the higher degree of sensitivity of privacy issues arising from health information. Nearly all citizens of NSW will have business with the NSW health sector. In addition health information relates to all persons, whereas for example student or employment information may not be (or no longer be) applicable to as many citizens. Likewise with driving records and many of the other categories etc. The low volume of credit matters is explained by the fact that such matters can only formally be dealt with by the Federal Privacy Commissioner.

For these reasons we are not surprised by these figures. However, the area will remain prominent due to the importance and 'higher sensitivity' of health information. As most of the matters (concerning public sector health) relate to disclosure, followed by access and accuracy, citizens will be more materially affected by the improper use of their health information and as such more likely to ventilate their grievance and access their rights. Another possible contributor is the level of understanding by medical practitioners of the rights of patients to access their health records.

This area will continue to grow (like most aspects of the current privacy regimes), but not necessarily at any significant rate. Private sector health matters relating to access may however increase in coming years significantly (and be in part dependent on the effectiveness or otherwise of the Commonwealth 'e-health' initiatives).

8. On page 14, details of your organisations structure indicate that the position of Principal Privacy Officer was vacant at the time of publication. Has this position since been filled?

Response:

Yes.

Background:

The substantive position holder and only prior holder of the position of Principal Privacy Officer (PPO) at the time of publication of the Annual Report was Mr McAteer. In June 2010 Mr McAteer was appointed Acting Privacy Commissioner a position he held until 6 November 2011. During this time Mr McAteer in effect performed both roles (as he had done from his appointment as PPO in October 2009 to June 2010 as the 'delegated Commissioner'.

Following the appointment of the substantive Privacy Commissioner in November 2011, Mr McAteer took on the role of Deputy Privacy Commissioner, a substantially identical role to the PPO, and has filled it since that time. In essence this position was filled immediately after the commencement of the Privacy Commissioner in November 2011.

Committee on the Office of the Ombudsman and Police Integrity Commission

Questions for the Information and Privacy Commission and the Office of the Information Commissioner

Office of the Information Commissioner 2010/2011

- 1. What impact has the merger between the Office of the Information Commissioner and Privacy NSW had on the running of the organisation, with particular regard for resource allocation, staffing, funding and overall business strategy?**

From 1 January 2011, the purpose of the merged office was to focus on the deliverables outlined by the Parliament in creating the new Information and Privacy Commission. Those deliverables were stated in all our key communications and shaped the way we approached business issues, including resource allocation, organisational structure, staff development, communications, policy development and our relationship with our oversight Committee, agencies and the public.

The IPC's 2010-11 Annual Report provides an overview of the key areas of focus for us in our first six months. The arrival of the new Privacy Commissioner, Dr Coombs, in November 2011, was a critical date after which many important business decisions that had an impact on the Privacy jurisdiction could be made.

In brief, the merger has affected every aspect of the operations of the IPC. In March 2012 we embarked on our first whole of IPC business planning exercise, and that will guide our operations going forward.

- 2. How has the merger of the two agencies impacted on the public perception of each agency?**

My response to this question is informed by the public forums I addressed when I undertook a road show around regional and rural New South Wales as the new Information Commissioner in the second half of 2010. Many of the issues raised with me then by members of the public, government agencies and local councils, had both a privacy and an access dimension. Knowing that a merger of the two jurisdictions was planned by the Government was seen as having great public benefit to those I met with, since that reflected their own experience.

As an office we do not measure public perception of the two jurisdictions, so I have no data on which to base my comments. However, I do find that referring to parallel developments at the Commonwealth level, in Queensland, as well as in Canada and the UK, gives the public and agencies confidence that the NSW approach is in line with global developments.

- 3. Has there been a significant increase in the workload for the Information Commissioner now that the person who holds this position also holds the position as CEO of the Information and Privacy Commission?**

In a practical sense, the addition of a new jurisdiction, along with the administrative and system impacts of that addition (ensuring the budget was transferred, and appropriate support was provided to the new staff) has added to my work as Information Commissioner. However I view the expenditure of time and effort in building solid foundations for the new agency to be an investment in the future. Once our business systems and processes are in place to ensure we deliver a timely and high quality service in accordance with the legislation we administer, then I expect the workload to be more balanced.

4. With respect to the strategies and activities that have been undertaken to educate the people of NSW about the work of the Information and Privacy Commission, how are the outcomes being assessed?

In 2010, the Office of the Information Commissioner (OIC) undertook a roadshow throughout regional NSW to promote education and awareness of the GIPA Act reforms to agencies and the public. In 2010/2011 we conducted a similar exercise in the Sydney metropolitan area. We then reported on our evaluation of the outcomes of those roadshows. In addition, we regularly conduct presentations, seminars and workshops as part of our key education strategies and activities, and report on the effectiveness and outcomes of those strategies. These reports are available at: http://www.oic.nsw.gov.au/oic/oic_publications/other_reports.html

A key theme from the feedback collected from agency participants was a request for more detailed information. This has resulted in our 2011/2012 focus on delivering topic-specific seminars for practitioners, whom we surveyed for the topics of most relevance to them.

The IPC seeks feedback on our core education activities and uses the evaluation of this feedback and other outcomes (such as attendance and follow up enquiries) to inform the direction of future activities and strategies.

Feedback on our seminars is analysed and a report will be proactively released after the last of our current series of seminars in June 2012. Feedback from the first seminar resulted in the IPC adjusting the activities and format of future seminars to better meet the learning objectives. We seek comments on seminar structure, facilities, activities, and overall satisfaction. Our average high satisfaction score is currently 85%.

5. The annual report notes the Information Commissioner's powers with regard to monitoring and reporting on system inadequacies in the disclosure of government information. Could you provide an outline of some examples of inadequacies that have been identified?

We have found that inadequacies with agency systems can stem from a lack of resources, ineffective processes for dealing with GIPA requests, or, in some cases, confusion about the requirements of the GIPA Act.

Some of the key system issues we have identified in reviewing agency decisions and investigating agency conduct include:

- inadequate systems and processes that enable the agency to follow the steps required under the GIPA Act in handling and processing access applications. For example, not having automatic reminders of when action needs to be taken, such as acknowledging applications within 5 working days, transferring applications within 10 working days, etc, means some agencies are missing deadlines.
- Some agencies have not updated their systems and procedures to accord with the GIPA Act, and are still applying the decision-making practices and procedures they used under the FOI Act.
- Poor or outdated record-keeping systems which result in delays in locating requested information, putting pressure on staff who must locate information within the time-frame required under the GIPA Act, and the inability of agencies to supply accurate annual report statistics about release of information under the GIPA Act, as required under section 125 of the Act.

The OIC assessed agency decision-making trends in preparing its first report to Parliament under section 37 of the *Government Information (Information Commissioner) Act 2009* (NSW) (to be tabled in May). We looked at complaints received about agencies and reviews of agency decisions in the first year of operations under GIPA. We found that a high proportion of agencies had poor information management systems, processes and policies in place. The system inadequacies contributed to poor decision-making in respect of access applications and agency non-compliance with the GIPA Act.

In that period, of 154 reviews completed by the OIC, we made a recommendation regarding an agency's systems or processes in 16% (25) of these due to delays in providing information, failure to appropriately locate information or failure to publish or release information. Additionally, 28% of complaints received by the OIC over that time related to poor processes contributing to delays with processing, failure to locate information and failure to publish or release information.

Local councils

Local councils have experienced difficulties adapting systems and processes to enable them to meet their significant open access information obligations, especially the requirement to publish information about development applications (DAs) on their websites. DAs often contain personal information and for privacy reasons, agencies should redact some of this information prior to releasing or publishing the DA information. The OIC released a Guideline, following consultation with the Privacy Commissioner, to assist councils determine what personal information in DAs should not be published online. That Guideline can be found at: http://www.oic.nsw.gov.au/agdbasev7wr/assets/oic/m15000112/guideline_3_personal_info_councilwebsites_may11.pdf

Also, many of the documents accompanying a DA are subject to copyright (eg architectural plans, engineers' reports, landscape plans, etc). The OIC obtained legal opinion on the effect of copyright law on the disclosure requirements under the GIPA Act, and advised agencies that they should not publish online or provide copies of documents to which copyright is attached without the permission of the copyright holder. See: http://www.oic.nsw.gov.au/agdbasev7wr/assets/oic/m15000112/knowledge_update_copyright_and%20compliance_april2011.pdf, and http://www.oic.nsw.gov.au/agdbasev7wr/assets/oic/m15000112/knowledge_update_copyright_faqs_may2011.pdf

This advice has presented difficulties for local councils. Many local councils have invested in online DA tracking systems to comply with their open access obligations under the GIPA Act, which need to be changed to take into account privacy and copyright considerations. Other councils have been publishing all DA information, as this is easier than making decisions about what to publish, and due to the cost and inconvenience of using redaction software. Other councils are not publishing any DA information online due to the cost of uploading, updating and maintaining this information on their websites. We continue to work with local councils to assist with these challenging issues.

6. As a part of the Policy & Good Practice team's plans for 2011-2012, engaging with disadvantaged and vulnerable communities has been identified as a priority. What are some of the groups that have been included in this engagement?

As an office we recognise that people from vulnerable and disadvantaged communities may find it difficult to access government-held information because they may not know where to look or whom to ask.

To help raise awareness of right to information and privacy laws, the IPC has identified a number of key projects for 2011–2012 in the area of community engagement.

In consultation and negotiation with various Aboriginal communities, we have developed a draft Aboriginal Action Plan. This draft plan is now ready for further community consultation and feedback before review and implementation. Our target for this consultative process is July 2012. Another project underway is a Disability Action Plan and toolkit, which will be launched early in 2013 following consultation and negotiation by our Community Liaison Officer with groups from the disability sector, to ensure our resources are appropriately targeted and accessible.

7. In conducting community consultations, what have been some of the consistent themes and areas of feedback provided to the Commission?

We regularly receive informal feedback from government agencies and the public on a range of information access issues. We have also released two consultation papers to obtain the views of agencies and the public. The first concerned the question of what personal information contained in development applications should be published on the websites of local councils. That generated 70 responses overall: see <http://www.oic.nsw.gov.au/agdbasev7wr/assets/oic/m15000112/consultation%20report%20-%20untangling%20the%20web.pdf>

The second consultation exercise involves the fees and charges provisions for accessing information under the GIPA Act. This consultation is currently in progress and responses are being reviewed: see http://www.oic.nsw.gov.au/agdbasev7wr/assets/oic/m15000112/consultation_paper_two_fees_and_charges_oct2011.pdf

Some of the consistent themes from members of the public (including community groups, organisations and the media requesting government information) have been:

- Some agencies are not providing adequate assistance to the public to access government information, including
 - not adequately explaining the process for making an application
 - referring applicants to the OIC to explain how requests may be made to their own agency
 - failing to keep applicants up to date with the processing stages of their application (for example, not acknowledging the application or notifying applicants of the decision).
- Some agencies require applicants to make formal access requests for government information, when providing the information informally would be more appropriate. This is particularly the case with personal information.
- Charging regimes are complicated and inconsistent.
- Agencies could improve communication with applicants, for example, calling an applicant to assist them narrow their search to avoid excessive processing charges or obtaining outstanding information required to process the request. Instead, some agencies issue a formal notice to the applicant that the application is not valid and require the applicant to submit a new application.

Consistent themes from agencies include:

- Agencies have difficulty applying the principles-based approach of the GIPA Act which requires them to balance interests (contrasted with the former FOI approach where that Act defined exemptions and circumstances when the agency could refuse or grant access).
- Agencies would like to continue to receive more targeted guidance from the Information Commissioner on interpreting the GIPA Act.
- Local councils are challenged in reconciling their disclosure obligations under the GIPA Act with privacy and copyright obligations.

Consultation with Aboriginal communities

The most significant targeted community consultation that has occurred has been with Aboriginal communities, and consistent feedback was the IPC's current lack of Aboriginal-specific resources.

During NAIDOC events and at many other events the IPC attended, a survey was conducted with various Aboriginal communities asking the best way to get information out to the community about the IPC and what it can do. In total 169 surveys were completed. The highest answer given was radio, followed closely by brochures and posters. Although only a small number of people indicated a preference for using the internet as a resource, 75% of people surveyed did indicate that they used the internet so we do plan to develop an Aboriginal-specific page on our website.

Many people also suggested that the IPC conduct an artwork competition to gain original Aboriginal artwork for brochures or posters. The community said that they felt this was the fairest way to choose an artist to do the artwork. It was suggested that the competition be state-wide and the community be invited to submit work. We are now considering undertaking the competition in partnership with like agencies as a shared initiative, and that members of various Aboriginal communities be invited to sit on the judging panel.

In creating Aboriginal resources, the IPC is committed to ensuring respect of Aboriginal culture. This is why the IPC will develop resources in partnership with various Aboriginal communities. The resources need to reflect cultural values and respect customs of Aboriginal peoples. When resources are being developed we are committed to ensuring that our images reflect all Aboriginal people of NSW, that they do not expose confidential or sensitive information, and that they do not reinforce negative stereotypes of Aboriginal peoples.

The IPC also commits to making sure that people we work in partnership with to develop resources are given appropriate acknowledgement for their artwork, contribution and roles in assisting us.

Feedback and questions raised through this community consultation showed that more specific information would be useful, such as how to access personal records, housing records or policies from Housing, DOCs, Aboriginal organisations or Health.

Our survey and discussions will be used to help further inform the IPC's Aboriginal Action Plan. The IPC is keen to work in partnership with other organisations to ensure that Aboriginal organisations and workers in remote and rural areas have information about key issues, rights and resources so they can help build capacity in their local communities.

8. There were three major investigations in response to complaints that involved the Barangaroo Delivery Authority, Macquarie University and the NSW Police Force. Were there any themes in common to each of these three major investigations in relation to access to information and/or privacy?

The three investigations undertaken by the OIC concerned quite different agencies. However, a number of common themes can be identified:

- Right to Information Officers are not receiving sufficient management support to encourage and facilitate agency compliance with the GIPA Act.
- Agencies have difficulty transitioning from the former FOI Act to the proactive disclosure model introduced by the GIPA Act. For example, all three agencies had difficulty meeting their open access obligations under GIPA. NSW Police also continued to apply exemptions which existed under the FOI Act rather than applying the public interest test under GIPA.
- Agencies have difficulty putting effect to the objects of the GIPA Act to disclose as much information as possible in the public interest. For example, the investigation into the Barangaroo Delivery Authority found that the Authority not only failed to fully comply with its open access provisions under section 6 of the GIPA Act in relation to redacted commercially sensitive information, but also failed to consider releasing the redacted information once it became less commercially sensitive. Following consultations with the OIC, the Authority made an undertaking to conduct ongoing reviews of redactions to ensure only appropriate information was redacted and that information would be released once it became less commercially sensitive.

9. The annual report highlights the Information and Privacy Commission's approach to managing poor agency decisions. Can you provide examples of any common themes and the strategies the Information and Privacy Commission will undertake to assist government agencies with their compliance requirements?

Common themes around poor agency decisions include:

- A number of agencies have difficulty balancing privacy principles and access principles, and tend to apply one principle as overriding the other rather than balancing the interests.
- Agencies have difficulty applying the public interest test under section 13 of the GIPA Act, leading to errors in decision-making, with access to information being incorrectly refused (70% of decisions brought to the OIC for review were about an agency's decision to refuse access). In particular, agencies take into account considerations against disclosure which should not apply. A small number of agencies treated the considerations against disclosure as exemptions similar to those that used to apply under the FOI Act, rather than weighing the public interest considerations for and against disclosure.
- Agencies had difficulty applying the public interest test to promote the objects of GIPA. Section 15 of the GIPA Act requires agencies to apply the public interest considerations against disclosure so as to promote the objects of the GIPA Act. Accordingly, agencies are obliged to accommodate access where appropriate. However, a number of agencies refused access without considering ways in which to mitigate the strength of public interest considerations against disclosure. For example, where the information sought is included in a record that contains the personal information of a third party, and the agency determines that release of that personal information is a relevant consideration against disclosure, the agency has the option of redacting the personal information in order to accommodate access to the remainder of the information. However, some agencies failed to consider this option and simply refused access entirely.
- A number of agencies failed to consult third parties who may have been expected to have concerns about the release of the information requested (section 54 of the GIPA Act). The purpose of consultation is to ascertain whether the person has a relevant objection to release of information that concerns them, and their reasons for any objection. The third party's views are relevant to the assessment of public interest considerations as they may add to or lessen the strength of a public interest consideration against disclosure. By failing to consult, agencies did not take sufficient measures to appropriately assess the public interest considerations.
- There has been quite a number of cases where agencies failed to conduct reasonable searches for requested information, leading to an incorrect decision that the information was not held.
- Agencies have been charging for activities in addition to those permitted under section 64(2) of the GIPA Act, one example being the time taken to remove staples from documents to take photocopies because the agency concerned does not maintain electronic copies of documents.

The IPC will continue to assist agencies to improve their practices by:

- Preparing and delivering targeted advice and training on issues agencies have particular difficulty with. For example, we are identifying key overlap issues between access and privacy which agencies commonly have difficulty with, and will prepare new guidance materials. We have already commenced this by releasing two Guidelines on interpreting the personal information provisions of the GIPA Act, and consulting with third parties: see http://www.oic.nsw.gov.au/agdbasev7wr/assets/oic/m15000112/guideline_4_personalinfo_publicinterestest_dec11.pdf, and http://www.oic.nsw.gov.au/agdbasev7wr/assets/oic/m15000112/guideline_5_final.pdf
- Obtaining feedback from agencies informally on aspects of the GIPA Act that are causing concern.
- Addressing forums to consult with practitioners and receive feedback (eg, supporting the quarterly FOI/Privacy Practitioners' Forum, and the regular meetings of the Local Government Managers' Australia).
- Providing guidance to agencies on a case-by-case basis in review reports, and publishing those reports online for the benefit of a wider audience.
- Visiting agencies, either at their request or during the course of an investigation, to examine their processes and identify and help address problematic issues.

10. How well are government agencies responding to the timelines and disclosure requirements under the GIPA Act? How often are extensions on these timelines applied

for? How many of these are granted? What percentage of matters do these account for?

Information and statistics on agency decision-making, including timelines, are derived from agencies reporting annually in accordance with section 125 of the GIPA Act on their obligations under the Act.

Section 125 requires agencies to submit annual reports no later than four months after the end of each reporting year. For most agencies, the reporting year ends on 30 June, making the GIPA reporting deadline 31 October. For universities and the Department of Education, the reporting year ends on 31 December, making 30 April the deadline for GIPA Act statistics.

In the 2010-2011 reporting period, only 43% of agencies submitted a copy of their annual report information to the Commissioner. The OIC is still receiving annual reports that were due in April and October 2011. Additionally, not all agencies provided the required statistical information as required under the GIPA Regulation. Accordingly, the OIC is not able to report on trends across all agencies.

Of the reports received:

- 96% of applications were decided within the statutory 20 working day decision period provided by section 57(1) of the GIPA Act or within a valid extension of time (up to 15 working days, making a total of 35 working days) granted under section 57(2). These figures are based on the responses from 67 agencies that submitted statistical information under Schedule 2 to the GIPA Regulation. Please note agencies are asked to report on the number of applications decided within the statutory timeframe (20 working days), including valid extensions and not just on meeting the 20 working days timeframe. Accordingly, we are unable to report statistics on the number of applications which required a valid extension.
- 4% of applications were decided outside of the statutory timeframe, taking more than 35 working days to decide the application.
- In the majority of cases (82%), agencies released the information requested. This figure is based on the 67 agencies who submitted statistical information under Schedule 2 of the GIPA Regulation.
- The decision that the information was not held by the agency was the second most common decision made by agencies. A large proportion of these decisions related to requests made from lawyers and not-for-profit organisations, which includes welfare centres and legal centres who commonly request information on behalf of vulnerable individuals.

11. The Committee notes that page 18 of the annual report indicates that a number of Equal Employment Opportunity targets have not been met. What is being done to assist the Information and Privacy Commission to meet these targets in the future?

The IPC has recently made an application for funding under the Elsa Dixon Aboriginal Employment Program (EDAEP) through State Training Services, Department of Education and Communities, for the temporary secondment of an Aboriginal worker to support the Community Liaison Officer in the implementation of the IPC's Aboriginal Action Plan. The EDAEP cannot be used to fill existing vacancies or fund positions within the organisation. Funding support of 65% is only provided to support the creation of new positions, identified or targeted for an Aboriginal person at or above Clerk Grade 3 /4 or salary equivalent.

If we are successful in receiving this funding, we will use the support services and networks of DAGJ's Norimbah unit and adopt DAGJ's Aboriginal Employment Strategy to provide a culturally appropriate workplace and adequate development and guidance for an Aboriginal employee.

Our intention is that the Aboriginal Liaison Officer will become a member of DAGJ's Aboriginal Staff Network, and have a relationship established with an Aboriginal mentor within the Department. That person will contribute to the implementation of the IPC's Aboriginal Action plan by helping to develop and maintain effective relationships with Aboriginal communities

and participating in the development of Aboriginal-specific resources. The Aboriginal Liaison Officer will also assist in community capacity building and skilling of Aboriginal people to raise awareness in their own communities about how to access government information and protect their privacy.

We expect to hear if we have been successful in receiving this funding in July 2012.

Turning now to the designated EEO groups and the targets, the IPC's current results are as follows:

EEO Group	Target	Target People	Result 2010-11
Women	50%	16	85%
Aboriginal and Torres Strait Islander people	2%	1	0%
People whose first language was not English	20%	7	18.4%
People with a disability	12%	4	3.7%
People with a disability requiring work adjustments	7%	2	3.7%

Given that the full complement of staff will be 33 once the IPC has filled its establishment positions, we have these aims:

- in current recruitment processes, we are alert to any potential to recruit people from the target groups;
- we are keen to actively recruit people with a disability, and plan to liaise with disability employment groups and agencies to assist with this aim.

- 12. On page 17 of the report, under the section on Recruitment and Selection, it is noted that the Information and Privacy Commission is in the process of updating internal position descriptions to comply with NSW Government capability frameworks. Can you provide the Committee with an update on this work?**

There are currently 33 positions in the IPC staff establishment. Of these, 29 are eligible for conversion to the capability framework. Twenty-two are currently in the capability framework and seven remain to be updated with the assistance of a contractor.

- 13. Under the section on professional development, one of the courses specifically developed for the Information and Privacy Commission relates to working effectively with interpreters. How often is the use of interpreters required? What percentage of the Information and Privacy Commission's work requires interpreters?**

Since the formation of the IPC, the service of an interpreter has been used on three occasions. Whilst this is minimal, since July 1998, it has been NSW Government policy that NSW Government agencies fund the provision of language services (that is, interpreters and translated materials) when dealing with clients, in order to provide all clients with access to Government services. For that reason it is important that IPC staff know how to provide and make best use of the services of interpreters and translators when requested or required. This training is currently offered three times per year, if numbers warrant.

The IPC has a generic privacy notice, which has been translated into the 23 most common NSW community languages, and a brochure "Your rights to government information in NSW" translated into 39 community languages. The IPC is currently arranging for the brochure "A guide to protecting your privacy in NSW" to be translated into 12 emerging community languages. In 2012/2013 we will look into producing emerging languages in an audio format, as people may not be literate in their own language. Audio versions could then be downloadable from the IPC site and played on community radio.

- 14. In the 2010/11 financial year, the Information and Privacy Commission contracted a number of external consultants. Could you provide the Committee with some information about the process the IPC employs in relation to executing these contracts,**

including information about the tender selection process, the tasks contracted for and the total costs associated with each individual contract?

While the 2011 Annual Report included a reference to commissioning of services from consultants and contractors, in fact only contractors were procured to assist with a range of administrative and project support activities.

Contractors included Deloitte, providing specialist taxation advice and service; the Internal Audit Bureau, assisting with the conversion of position descriptions to the capability framework; Curo Consulting, providing support with recruitment activities; and O'Connor Marsden & Associates Pty Ltd, who assisted with the development of an audit and risk framework for the IPC to fulfil Treasury requirements.

The amount spent on contractors in 2010/11 was approximately \$115,000.

15. Parliament has recently heard of a matter which took the Information and Privacy Commission six to eight weeks to assign a case officer. What impact do these timeframes have on customer experience at the Commission? What resourcing would the Commission require to reduce these timeframes?

The office has been experiencing a substantial delay in its review and complaint handling functions in respect of the GIPA Act over recent months.

It is important for the Committee to note that no such delay exists with Privacy matters.

The delay in allocating cases has arisen because the volume of matters has exceeded available staff. The original estimate of staff to deal with reviews and complaints, based on the best available data when the office was being set up in 2009-10, in fact has been quite inadequate, and we have been working hard to match our staff complement to demand.

We have also been significantly impacted by the absence of a case management system and a records management system. Once we have these systems in place, this should significantly improve the efficiency and effectiveness of our operations.

The Casework team, when fully staffed, consists of one Review Officer, four Review & Investigation Officers, one Senior Review & Investigation Officer, one Principal Review Officer and one Manager. Of that group, three staff have received promotions elsewhere (including to other IPC positions), one is on higher duties secondment to another agency and one is on maternity leave. We are presently undertaking recruitment activities to fill these vacant positions, some of which have been filled in a temporary basis to date, as well as exploring opportunities for secondments into the office and making other short-term contractor arrangements. To support these efforts we have just commenced recruitment for an Executive Director to enhance our management capacity.

The IPC has adopted a 'triage' process for new files. New files are reviewed by the Senior Review & Investigation Officer for jurisdiction and to identify the issues and level of complexity in the case. Where possible, straightforward cases are dealt with straight away by that officer. We have recently introduced a new role to assist with the early resolution of straightforward matters. Where a file may be particularly time-sensitive, it will be prioritised. However, the majority of cases will be dealt with in the order they are received.

Parties are updated on the progress of their file at regular intervals. We have also publish information on the number of open cases on hand by the month received on our website, at: <http://www.oic.nsw.gov.au/oic/review/reviewbyinformationcommissioner.html>.

In 2011, we received an average of 38 requests for assistance each month and closed an average of 29 files each month. That has clearly contributed to the backlog and to the present delays. The delays of course have a significant impact on customer experience. Our practice is to ensure we update the public and agencies about timeframes, and that we publish information on our case handling performance (as referred to above).

It is worth mentioning that there have been some very quick turnarounds as well, which have received positive comment.

Timeliness is a critical factor, and addressing the backlog and the causes of the delays remains my highest priority as Information Commissioner. I expect that the current round of recruitment activity will greatly assist us in meeting our published service standards. Of equal importance is the requirement to get our business systems in place and functioning effectively.

16. At the time of the publication of the 2010-2011 Annual Report, two valid access applications had been received by the Information and Privacy Commission. Has the Information and Privacy Commissioner received any access applications since the Annual Report was published? If so, how many?

The IPC has received six formal access applications since the 2010-2011 Annual Report. The OIC decided the applications within 20 working days in 5 of these applications. The remaining application was decided within 27 working days, and was therefore a deemed refusal.

Four of the applications (including the deemed refusal) resulted in a decision that the OIC did not hold the information, and the applications were transferred to a more appropriate agency. Two applications resulted in a decision that the information was not held by the OIC, but were not transferred because it was unlikely that any other agency would hold the information requested.

17. Can you outline examples of administrative support and services the Information and Privacy Commission receives from the Department of Attorney General and Justice?

The IPC pays the Department of Attorney General and Justice to provide us with a range of corporate services, including the following:

Financial Services

- General ledger maintenance
- Budget coordination – including Treasury “TOES” system data entry
- Accounts payable, bank management and journal processing
- Preparation of source data for Business Activity Statements
- Monitoring of balance sheet accounts, monthly reconciliations
- Preparation of draft Annual Financial Statements, including advice about policy and standard (AAS) changes.

Human Resources

- Payroll
- Recruitment
- Workforce management
- Online attendance system
- Health and Safety Administration.

Information Technology Services

- Provision of network infrastructure, network maintenance
- Telephony services, including maintenance
- Management of corporate I.T. related accounts including telephony and photocopier charges
- Helpdesk services.

Asset Management Services

- The DAGJ Facilities Management team manages all aspects of office and accommodation including minor upgrades and refurbishments, repairs and maintenance, engineering, security services and lease management.
- The Asset Management Branch helpdesk is the first point of contact for urgent maintenance requests during business hours.

- IPC liaises with DAGJ Asset Management services when necessary in relation to lease negotiations and for disposal of assets and equipment.

IPC also funds a Senior Policy Officer position in the Legislation and Policy Division of the Department of Attorney General and Justice. This unusual arrangement is a legacy of the arrangements put in place for the establishment of the Office of the Information Commissioner in 2009. That position holder is responsible for dealing with legislative amendments to the GIPA and PPIPA Acts. The person also works on other legislative projects not associated with the IPC.

A high priority for the IPC is to set in place a clear service level agreement with DAGJ for the key administrative and support services we receive and pay for, to ensure that our business needs are met, that service problems are addressed in a timely manner, and that we are receiving value for money in light of the amount we pay to the Department.

Office of the Information Commissioner 2009/10

- 1 In order to help reinforce cultural change, 'strategic goal three' listed in your annual report relates to the building of key links with NSW stakeholders. These stakeholders include the Ombudsman, Auditor General and State Records. How have these relationships developed since 2009? What opportunities to strengthen these relationships exist for the future?**

Where we have a clear shared interest in good public administration and a public sector culture of accountability and transparency, it is beneficial for the IPC to reinforce the messages of these other accountability or integrity agencies and to ensure that our messages are consistent and mutually reinforcing. Broadly speaking, we share the aim of improving public confidence in the way government agencies provide services by providing efficient and effective oversight of our specific jurisdictions.

We have open and constructive relationships with all these bodies that I believe have been beneficial for the IPC as a new, small oversight agency. We have regular meeting with the Audit Office about common system issues and trends we might identify in the course of our complaints or reviews; we have sent staff to Audit Office and Ombudsman training courses to improve skills and build their networks; and we continue to reinforce the vital importance of adherence to good record keeping practices across all the agencies we deal with, in accordance with State Records obligations. In every respect I believe these relationships are strong and beneficial for the IPC as it fulfils its role of administering privacy and access legislation.

- 2. What are some of the ongoing challenges to creating cultural change with respect to the proactive release of government information?**

Three key challenges we have identified are as follows:

- The need for agencies to adopt or vary their processes and approach to ensure greater disclosure of government information and hence compliance with the GIPA Act and its objects.
- Appropriate support at the senior management level to encourage staff compliance with the GIPA Act,
- To ensure agencies understand the benefits of a proactive approach to releasing information.

- 3. In 2009-10 the OIC conducted research and development into case management and reporting systems to help agencies comply with the GIPA legislation. The aim behind this was to address a number of key operational requirements such as dealing with applications and achieving consistency across agencies. Has this consistency been achieved? How is this measured? In what areas might there be improvement? Which agencies struggle the most with compliance requirements? What is being done to support these agencies?**

Prior to 1 July 2010, when the GIPA Act came into effect, the OIC rolled out its 'GIPA reporting tool' to agencies, providing training and employing a support person in our office to assist in responding to requests for help. The very first results of the operation of this tool will be made available in the Information Commissioner's inaugural report to Parliament on the first year of operation under GIPA (due in May 2012).

Many of the questions raised by the Committee are not yet able to be answered because the system is very new, having only operated for a year during the course of which the government changed and many departmental rearrangements occurred which impacted on the data-gathering process.

The provision of this reporting tool, however, was seen as one of the key benefits to agencies to smooth the introduction of the new right to information regime, as it was meant to

significantly simplify and streamline reporting requirements. Its performance and whether it meets its objectives are thus key issues to be evaluated.

Earlier this calendar year I initiated a short sharp review of the system to see whether it was in fact meeting its aims. It is a significant cost to the office, so I wished to be sure we were spending our money wisely and well. At the time of this response to the Committee's questions on notice, I have received a draft report that indicates the fundamentals of the system are sound, but that it can be made more user-friendly and deliver better quality data. There remains much work to be done in analysing current annual report data; assessing the strengths of the system that has been developed; and promoting its benefits across the sector to ensure that its aims are met.

4. One of the measures of success outlined in the report included "stakeholders value our service". What has been the response to your service and how is this measured? What has been some of the criticisms put to the Commission in regards to its service? Have you received any positive feedback?

The two main criticisms the OIC faces are that external reviews take too long and that our recommendations are not enforceable.

The OIC does not yet have a set way to measure response to our service. However, we are open to feedback and try to make it easy for this to be provided to us. We receive feedback through a number of sources, such as directly (either in person, on the phone or by email), or through more formal channels such as practitioner forums. However, we are able to measure response to the training we provide through evaluation forms filled in by participants. The average satisfaction score is currently 85%.

We receive a good amount of positive feedback. Despite the backlog, the casework team closes many files quickly and has helped to resolve many matters informally or with outcomes that both parties are happy with. Current experience is that parties take the time to provide positive feedback for around half of the cases; about 10-15% of applicants let us know they are unhappy; with the remainder not providing any feedback. While some parties may be disappointed with the outcome of a review, they advise us they are generally happy with our service, particularly the giving of reasons for our findings.

We have received positive feedback on our customer service, in particular the work of the Information and Assistance Officers in responding to calls through the 1800 INFOCOM number. In addition, agencies have responded positively to the general and targeted policy advice and assistance provided by the Policy Team.

5. The report indicates that your office was developing a case management system, an electronic document management system and a telephony system. What is the current status of the development of these systems? What processes audit and monitor the effectiveness of these systems? Are there any plans for the development of any other systems for the Commission?

Our program of system implementations is expected to be completed before the end of 2012. The three core business systems are in varying stages of development, as follows:

- a) The IPC recently concluded a request for tender to procure a commercial off-the-shelf case management system. Department of Finance and Service was contracted to prepare the tender on our behalf, and State and Federal contract suppliers were invited to respond. The tender process did not result in a suitable product being selected and NSW Procurement is currently providing assistance with alternative procurement options.
- b) The electronic document and records management system (EDRMS) was delivered by DAGJ in July of 2011. However, the IPC was not able to transition to the new system as the data migration did not proceed as planned. After extensive negotiations with DAGJ, a new project has commenced to resume the data migration.

- c) The telephony call centre system was delivered by DAGJ in February of 2011 to manage the OIC enquiry line. A supplementary project is currently underway to deliver reporting and administrator functionality, staff training and additional queues to manage the IPC and Privacy enquiry lines.

The IPC established an internal ICT Steering Committee in 2011 to oversee the development of the systems and to ensure they meet the operational objectives of the IPC strategic plan. The effectiveness of the systems is monitored through regular internal reporting, monthly meetings with service providers and feedback from staff and stakeholders. Further work is planned to identify the audit activities and critical business processes that underpin the core systems and to rate the risk and compliance areas, particularly in the area of records management.

There are no plans at present to develop any other systems, although future development may be considered if the business needs change.

6. **The 2009-10 annual report notes that legal advice was obtained from Deacons/Norton Rose on draft templates for contractual clauses and on the preparation of materials on statutory timeframes listed under the GIPA Act. Why was this legal advice sought from an external source rather than through the Crown Solicitors Office? What were the costs associated with this advice?**

There is a reference on page 16 of the 2009-2010 Annual Report to the use of the Crown Solicitors Office for three legal advices, and Deacons/Norton Rose for an additional two advices.

OIC accounting records reveal Legal Services Costs of \$14,331 at Note 2 (b). An examination of the ledgers undertaken in response to this question indicates that this amount is for three invoices only, all being from the CSO. It appears that the cost of the Deacons/Norton Rose services may have been met by another agency, presumably DAGJ.

None of the original staff are still with the Office, and no information is held on file as to why this decision was made. However it appears that the office did not in fact bear the costs of the Deacons/Norton Rose advice in any case.

7. **The cost of producing the annual report for 2009-10 was \$8,080. This was due to the cost of consultancy fees for both design and printing. In 2010-11 the cost of publication significantly increased to \$17,289. Whilst the annual report now covers both the Office of the Information Commissioner and the Office of the Privacy Commissioner, could you explain the increase in publication costs? Also, please describe what role the Commission staff members undertake with respect to the writing and production of this report. What work is undertaken by external contractors?**

The annual report for 2009-10 was for the Office of the Information Commissioner only. The annual report for 2010-11 included the annual reports of the Office of the Information Commissioner and the Office of the Privacy Commissioner, as well as an overview of the first six months of the new Information and Privacy Commission.

The key differences accounting for the 114 per cent increase in costs were as follows:

- the number of pages increased from 60 to 88, representing a 46% increase in size over the earlier report;
- the late presentation of the audited financials, which were delayed well into October for clarification. This meant that 15 bound colour photocopies of the annual report had to be produced in order to meet the deadline for tabling in the NSW Parliament, at a cost of \$874.50;
- a cost of \$1,518 was incurred for the use of a professional photographer, who shot pictures of staff and the executive team for the 2010-11 annual report;
- a professional proof reader checked the final draft report, at a cost of \$325;
- a one-off cost was incurred for the development of four cover design concepts, totalling \$3,125.

The content of the 2010-11 IPC annual report was all written by IPC staff and co-ordinated by the IPC's Senior Communications Officer. The only external contractors used were the design studio, the photographer and the proof-reader.

8. **The financial performance of the OIC listed administration fees of \$774,444. Whilst the 2009-10 financial year was the set up year for the OIC and \$366,000 was allocated to fund corporate support services, please provide a more detailed account of this total expense given that the following year's administration expenditure was \$297,546. This amount, as compared against the 2009-10 figure, is approximately \$110,898 lower even without the additional expense of corporate support services.**

As noted, \$366,000 of the total related to the provision of corporate services by DAGJ to OIC, across Finance, Information Services, Human Resources, Asset Management and Communications areas.

The general ledger transaction report for the applicable OIC account in 2009-10 shows that some expenses other than corporate support were included with this amount and not correctly posted, such as insurance, stores, telephones, rates, rents. The amount involved was \$390,489. This means that at least \$390,489 was incorrectly reported in the notes to the 2009-2010 financial statements.

In relation to the 2010-2011 year, administration fees were reported as \$297,546. The anticipated and agreed fees for 2010-2011 were \$320,000.

Examination of the financial ledgers reveals that quarter 3 and quarter 4 charges for DAGJ information services at \$12,773 each quarter were posted to a different fund type in the ledgers. That accounts for a variance of \$25,546, which should have been reported in notes for this item in the 2010-2011 financial statements.

Key issues for the IPC are in the quality, accuracy and verifiability of financial information that is managed and reported on our behalf by the Department. With the assistance of the IPC's Audit and Risk Committee and our internal auditors, we are focusing on the quality assurance processes and the checks and balances in place to ensure that we can be confident that relevant Treasury standards are met and that we are provided with, and in turn report on the basis of accurate data.

9. **In the financial performance statement for 2009-10, \$5,904 is listed as the cost attached to the use of telephones by the Office of the Information Commissioner. In the 2010-11 financial performance statement, these costs have increased to \$34,461. Whilst the 2010-11 financial performance statement reports on the telephone expenses for two merged offices, please account for reasons why this figure has increased so substantially.**

OIC's telephone costs for 2009-2010 were \$5,904. These charges related to seven months' services, commencing from December 2009. Annualising the seven month amount equates to approximately \$10,000 for a 12 month period.

IPC Telephone costs for 2010-2011 were \$34,461. The one new element, which was initiated in November 2010, was White Pages listings. These amounted to \$25,000 of the total telephone charges for that year. The difference is thus accounted for by including White Pages in the charges for this line item.

10. **In the financial performance statement for 2009-10, the costs allocated for miscellaneous expenses are \$19,177. In the 2010-11 financial performance statement these costs have increased to \$127,457. Whilst the 2010-11 financial performance statement includes the miscellaneous expenses for two merged offices, please account for reasons why this figure has increased substantially.**

The reason for the significant variation between the two years was an extraordinary item identified by the auditors in their examination of the accounts in October 2011. A make-good

provision required under the office accommodation lease had been overlooked. An amount of \$86,941.20 was calculated as the provision and this was adjusted prior to the accounts being signed off. This was a one-off adjustment accounting for the majority of the \$127,457 reported for 2011.